

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 8TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE P.VISHWANATHA SHETTY

Writ Petition No. 20878 of 1997

1. Thamanna Mudakappa Talwar
@ Mudakanavar
2. Parasappa Hanamappa Talwar
@ Mudakannavar
3. Thirakappa Ramappa Mudakannavar

All are majors
Agriculturists
Residents of Ranebennur
Taluk: Ranebennur
Dharwar District

.. PETITIONERS

(By Sri Ram Bhat, Advocate)

- Vs -

1. Hanamappa
adopted father Yellappa
Urf Mudakannavar
Age: Major, Occ: Coolie
Resident of Ranebennur
Dharwar District
2. The Assitant Commissioner
Haveri Sub-Division
Haveri
3. The Tahsildar
Ranebennur

.. RESPONDENTS

(By Sri Satish M.Doddamani, Advocate for R-1
and Sri B.E.Kotian, Addl. Government Advocate
for R-2 and R-3)

This writ petition is filed under
Articles 226 and 227 of the Constitution of
India praying to quash vide Annexure-j dated
9.5.95 and etc.

This petition coming on for orders
this day, the Court made the following:

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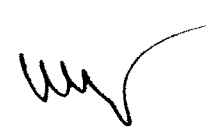
ORDER

Sri B.E.Kotian, learned Government Advocate is directed to take notice for respondents.

2. Though this petition is posted in orders list, with the consent of the learned counsel appearing for the parties, it is taken up for final hearing and disposed of by this order.

3. In this petition, the petitioners have challenged the correctness of the Order dated 9th May 1995, a copy of which has been produced as Annexure-J passed by the 3rd respondent and also the Order dated 28th February 1997, a copy of which has been produced as Annexure-K passed by the 2nd respondent confirming the Order-Annexure-K, wherein the name of the 1st respondent came to be entered in the revenue records in respect of the land measuring 2 acres and 34 guntas in Sy. No.788 of Ranebennur Taluk, Haveri District.

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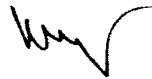
4. Sri Ram Bhat, learned counsel appearing for the petitioners submitted that the orders impugned are totally illegal and without jurisdiction. He submitted the Writ Petition Nos.24690-93 of 1993 filed by the 1st respondent challenging the entries entering the name of the petitioners having been dismissed by this Court by its order dated 19th October 1993, it was not open to the respondents-2 and 3 to enter the name of the 1st respondent on the application made by the 1st respondent. He submits that the order made by this Court binds the parties and the claim made by the 1st respondent is barred by the principle of res judicata. It is also his submission that on the ~~same~~ cause of action it was not permissible for the 1st respondent to move the authorities to enter his name which has been finally concluded ^{by the} ~~subject to the~~ order passed by this Court.

5. Sri Satish Doddamani, learned counsel appearing for the 1st respondent tried to support the orders impugned and submitted that since the compromise decree was obtained by fraud, the 1st respondent was fully justified in directing the authorities to

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enter his name in the revenue records. He further submitted that since both the authorities have entered the name of the 1st respondent in the revenue records, it is not a fit case for interference by this Court against the orders impugned in exercise of its extraordinary jurisdiction.

6. I am of the view that this writ petition is entitled to succeed on the short ground that the order made by this Court binds the parties subject to the observation made in the said order, and the claim made by the 1st respondent to enter his name in the revenue records till the final adjudication of the rights of the parties before the civil court is barred by the principle of res judicata. Therefore, as observed by me earlier it was not permissible for the 1st respondent to seek for correction of the entries in the revenue records as the claim of the 1st respondent is barred by the principle of res judicata. Therefore, the orders impugned are totally illegal and liable to be set aside. Accordingly, the Order dated 9th May 1995, a copy of which has been produced as Annexure-J and the Order dated 28th February 1997, a copy



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of which has been produced as Annexure-K are hereby set aside. It is needless to observe that the parties rights in respect of the lands in question is subject to the decree that may be made in suit O.S.No.120/91. Accordingly, this petition is allowed and disposed of in terms stated above. Rule is issued and made absolute.

7. Sri B.E.Kotian, learned Government Advocate is given four weeks' time to file his memo of appearance.

Sd/-
JUDGE



pmg/